



February 28, 2003

## SENATE BILL No. 202

DIGEST OF SB 202 (Updated February 27, 2003 11:44 AM - DI 105)

**Citations Affected:** IC 32-29.

**Synopsis:** Equitable subrogation. Provides that a mortgagee may not be denied equitable subrogation solely because the mortgagee is a lender and had constructive notice of the intervening lien, the lien was released, or the mortgagee obtained title insurance.

**Effective:** July 1, 2003.

**Clark**

January 9, 2003, read first time and referred to Committee on Insurance and Financial Institutions.  
February 27, 2003, reported favorably — Do Pass.

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February 28, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## SENATE BILL No. 202

A BILL FOR AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 32-29-1-11, AS ADDED BY P.L.2-2002,  
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2003]: Sec. 11. (a) This chapter does not limit:

4 (1) the right to assign, mortgage, or pledge the rents and profits  
5 arising from real estate;

6 (2) the right of an assignee, a mortgagee, or a pledgee to collect  
7 rents and profits for application in accordance with an  
8 assignment, a mortgage, or a pledge; or

9 (3) the power of a court of equity to appoint a receiver to take  
10 charge of real estate to collect rents and profits for application in  
11 accordance with an assignment, a mortgage, or a pledge.

12 (b) A person may enforce an assignment, a mortgage, or a pledge of  
13 rents and profits arising from real property:

14 (1) whether the person has or does not have possession of the real  
15 estate; and

16 (2) regardless of the:

17 (A) adequacy of the security; or

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- 1 (B) solvency of the assignor, mortgagor, or pledgor.  
2 (c) If a person:  
3 (1) enforces an assignment, a mortgage, or a pledge of rents and  
4 profits arising from real estate; and  
5 (2) does not have possession of the real estate;  
6 the obligations of a mortgagee in possession of real estate may not be  
7 imposed on the holder of the assignment, mortgage, or pledge.  
8 **(d) Except for those instances involving liens defined in**  
9 **IC 32-28-3-1, a mortgagee seeking equitable subrogation with**  
10 **respect to a lien may not be denied equitable subrogation solely**  
11 **because:**  
12 **(1) the mortgagee:**  
13 **(A) is engaged in the business of lending; and**  
14 **(B) had constructive notice of the intervening lien over**  
15 **which the mortgagee seeks to assert priority;**  
16 **(2) the lien for which the mortgagee seeks to be subrogated**  
17 **was released; or**  
18 **(3) the mortgagee obtained a title insurance policy.**

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 202, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 202 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 9, Nays 0.

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